IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

THURSDAY, THE 15TH MARCH 2007 / 24TH PHALGUNA 1928

WP(C).No. 8366 of 2007(U)

PETITIONER:

DEEPA SAJEEV, PROPRIETRIX,
SAI KRISHNA FUELS, IBP DEALER,
NANGIARKULANGARA P.O.,
HARIPAD, ALAPPUZHA DISTRICT.

BY ADV. SRI.K.JAJU BABU

RESPONDENT:

IBP CO. LTD., REPRESENTED BY ITS
SENIOR DIVISIONAL MANAGER,
COCHIN DIVISIONAL OFFICE, M.K.K.NAIR ROAD,
PALARIVATTOM, COCHIN-25.

BY ADV. SRI. P.GOPAKUMARAN NAIR, SC, IBP

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 15/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC.NO.8366/2007 U

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE NOTICE DTD. 8/02/2007 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

EXT.P2: **COPY OF THE REQUEST DTD. 16/02/07 SUBMITTED BY THE PETITIONER BEFORE THE RESPONDENT.**

EXT.P3: **COPY OF THE INTIMATION DTD. 27/02/07 ISSUED BY THE RESPONDENT TO THE PETITIONER.**

EXT.P4: **COPY OF THE INTERIM ORDER DTD.6/03/00 IN O.P.NO.7095/2000 OF THIS HON'BLE COURT.**

EXT.P5: **COPY OF THE JUDGMENT DTD. 12/06/2000 IN O.P.NO.30411/1999 OF THIS HON'BLE COURT.**

EXT.P6; **COPY OF THE INTERIM ORDER DTD. 27/03/2001 IN O.P.NO.10554/2001 OF THIS HON'BLE COURT.**

/TRUE COPY/

KSS

K.BALAKRISHNAN NAIR, J.

W.P.(C).No.8366 of 2007-U

Dated this the 15th day of March, 2007

JUDGMENT

The petitioner is running a petroleum outlet of the respondent company. The samples collected from her outlet being found substandard, she was asked to close down the outlet. The samples collected are divided into three parts and the petitioner has got a right to request for re-test of one of the remaining samples. The same was granted by Ext.P3. The testing laboratory to which the sample is sent is not presently working. Therefore, re-test cannot be held. The delay is causing serious prejudice to the petitioner and she apprehends that there may be chemical changes in the samples taken. The petitioner submits, the Kochin Refineries Ltd. is having laboratory facility to conduct re-test. She points out that this Court has ordered re-test by Kochin Refineries Ltd. in certain cases and therefore the respondent may be directed to send the sample to the Kochin Refineries Ltd. so that re-test can be conducted without delay.

2. I heard the learned Standing Counsel for the respondent. The learned Standing Counsel submits that the respondent is ready to send the sample to the Kochin Refineries Ltd., for re-test. This submission is recorded. The respondent shall, on production of a copy of this

judgment, send forthwith one of the samples kept by it to the Kochin Refineries Ltd. Needless to say, the re-test shall be done at the cost of the petitioner. Needless to say, the respondent will consider the claim of the petitioner for running the outlet, in the light of the result of the re-test.

The Writ Petition is disposed of as above.

K.BALAKRISHNAN NAIR, JUDGE.

MS